

Assembly Bill No. 2690

CHAPTER 330

An act to repeal and add Section 1720.4 of the Labor Code, relating to public works, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 27, 2004. Filed with Secretary of State August 30, 2004.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2690, Hancock. Public works: funds.

Existing law defines "public works," for purposes of regulating public works contracts, as, among other things, construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. Otherwise covered work that meets certain criteria, including work that is performed entirely by volunteer labor, is excluded from this definition of "public works." Pursuant to existing law, all workers employed on public works shall be paid not less than the general prevailing rate of per diem wages for work, except for public works projects of \$1,000 or less.

This bill would exempt from these provisions any work that is performed by a volunteer, a volunteer coordinator, or by members of the California Conservation Corps or of certified Community Conservation Corps.

The bill would apply this exemption retroactively to otherwise covered work concluded on or after January 1, 2002, to the extent permitted by law. This bill would remain in effect until January 1, 2009, and as of that date is repealed, unless a later enacted statute modifies that date.

This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 1720.4 of the Labor Code is repealed.

SEC. 2. Section 1720.4 is added to the Labor Code, to read:

1720.4. (a) This chapter shall not apply to any of the following work:

(1) Any work performed by a volunteer. For purposes of this section, "volunteer" means an individual who performs work for civic, charitable, or humanitarian reasons for a public agency or corporation



qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, without promise, expectation, or receipt of any compensation for work performed.

(A) An individual shall be considered a volunteer only when his or her services are offered freely and without pressure and coercion, direct or implied, from an employer.

(B) An individual may receive reasonable meals, lodging, transportation, and incidental expenses or nominal nonmonetary awards without losing volunteer status if, in the entire context of the situation, those benefits and payments are not a substitute form of compensation for work performed.

(C) An individual shall not be considered a volunteer if the person is otherwise employed for compensation at any time (i) in the construction, alteration, demolition, installation, repair, or maintenance work on the same project, or (ii) by a contractor, other than a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, that is receiving payment to perform construction, alteration, demolition, installation, repair, or maintenance work on the same project.

(2) Any work performed by a volunteer coordinator. For purposes of this section, “volunteer coordinator” means an individual paid by a corporation qualified under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt organization, to oversee or supervise volunteers. An individual may be considered a volunteer coordinator even if the individual performs some nonsupervisory work on a project alongside the volunteers, so long as the individual’s primary responsibility on the project is to oversee or supervise the volunteers rather than to perform nonsupervisory work.

(3) Any work performed by members of the California Conservation Corps or of Community Conservation Corps certified by the California Conservation Corps pursuant to Section 14507.5 of the Public Resources Code.

(b) This section shall apply retroactively to otherwise covered work concluded on or after January 1, 2002, to the extent permitted by law.

(c) This section shall remain in effect only until January 1, 2009, and as of that date is repealed, unless a later enacted statute, which is enacted before January 1, 2009, deletes or extends that date.

SEC. 3. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to encourage citizen initiative and volunteer action in state service and to eliminate all legal disincentives and impediments to



volunteering on public works projects, it is necessary that this bill take effect immediately.

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